

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HERMAN LEE BARTON, JR.,

NO. C14-1998-JLR-JPD

Plaintiff,

V.

HORSESHOE CAFE,

REPORT AND RECOMMENDATION

Defendant.

Plaintiff, a detainee at Western State Hospital in Tacoma, Washington, has filed a proposed civil rights complaint pursuant to 42 U.S.C. § 1983. He did not pay the filing fee or submit a proper application to proceed *in forma pauperis*. *See* Dkt. 3. On January 21, 2015, the Clerk mailed plaintiff a letter at his address of record, informing him of these deficiencies and granting him until February 20, 2015, to correct them. *Id.* On February 4, 2015, the Clerk’s letter was returned to the Court as undeliverable. Dkt. 4. To date, plaintiff has not updated his address with the Court.

Pursuant to Local Civil Rule 41(b), *pro se* parties are required to keep the Court and opposing parties advised of their current mailing address. Local Rules W.D. Wash. LCR 41(b). If mail sent to a *pro se* plaintiff by the Clerk is returned as undeliverable, and if the plaintiff fails to notify the Court and opposing parties of his or her current mailing address

1 within 60 days of the mail being returned as undeliverable, the Court may dismiss the action
2 without prejudice for failure to prosecute. *Id.*

3 Because it has been more than 60 days since mail sent to plaintiff was returned as
4 undeliverable, the Court recommends that this matter be DISMISSED without prejudice for
5 failure to prosecute. A proposed order accompanies this Report and Recommendation.

6 Objections to this Report and Recommendation, if any, should be filed with the Clerk
7 and served upon all parties to this suit by no later than **April 28, 2015**. Failure to file
8 objections within the specified time may affect your right to appeal. Objections should be
9 noted for consideration on the District Judge's motion calendar for the third Friday after they
10 are filed. Responses to objections may be filed within **fourteen (14)** days after service of
11 objections. If no timely objections are filed, the matter will be ready for consideration by the
12 District Judge on **May 1, 2015**.

13 This Report and Recommendation is not an appealable order. Thus, a notice of appeal
14 seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the
15 assigned District Judge acts on this Report and Recommendation.

16 DATED this 7th day of April, 2015.

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18 JAMES P. DONOHUE
19 United States Magistrate Judge
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